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UNITED STATES PATENT AND TRADEMARK OFFICE

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Technology Center 2100

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/939,899
Filing Date: August 27, 2001
Appellant(s): O'ROURKE, KEVIN

Siemens Corporation
<u>For Appellant</u>

EXAMINER'S ANSWER

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

This is in response to the appeal brief filed 6/20/06 appealing from the Office action

mailed 10/7/05.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial

proceedings which will directly affect or be directly affected by or have a bearing on the

Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The amendment after final rejection filed on 3/18/05 has not been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is

correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,924,074	Evans	07-1999
6,327,589	Blewett et al.	12-2001
5,832,450	Myers et al.	11-1998
5,903,889	De la Huerga et al.	05-1999
6,263,330	Bessette	07-2001
Microsoft Excel Help		03-2001
Screen Dumps of Internet Explorer 6.0		03-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim 6 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "said image icon" in line 5 of page 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 23 recites the limitation "storage of said particular patient record information in said portable processing device". By "storage of said particular patient record information in said portable processing device", it seems applicant meant, and which examiner will interpret to mean, storing data in a storage device such as a hard drive or RAM of the portable processing device.

Claims 1-2, 5, 9, 13-14, 16 and 18 are rejected under 35 U.S.C. 102(b) as being

anticipated by Evans.

As per claim 1, Evans teaches a method for providing a user interface for use by

a portable processing device for accessing and navigating patient record information

(Abstract) comprising the activities of:

receiving user identification information for use in authorizing user operation of

the portable processing device (col. 15, lines 21-32);

initiating display of an image including a plurality of links to a corresponding

plurality of individual patients (col. 5, lines 56-66);

acquiring data representing a patient record content index, the content index

representative acquired data being dynamically derived, by processing information

comprising an existing particular patient record, in response to a user command from

the portable processing device to access the particular patient record (fig. 8; col. 7, lines

28-34);

initiating display of a patient record content index image including a plurality of

links to a corresponding plurality of items of patient record information image using the

acquired data in response to user selection of a link to one of the plurality of individual

patients (Abstract; figs. 5-8 and 19-22; col. 9, lines 7-14; col. 13, lines 20-30;); and

initiating display of an image including information comprising a portion of a

patient record in response to user selection of a link to one of the plurality of items of

patient record information (Abstract; figs. 5-8, 12 and 19-22; col. 2, lines 34-38; col. 7,

lines 28-34; col. 9, lines 7-14; col. 13, lines 20-30; *e.g. a healthcare provider located in*

Boston may access the EMR system to retrieve a patient record residing on a server

located in San Diego via a browser such as Microsoft Internet Explorer or Netscape

Navigator).

As per claim 2, Evans teaches a method for providing a user interface for use by

a portable processing device for accessing and navigating patient record information

wherein the processing of the information comprising the existing particular patient

record is performed by one of, (a) an application located in a remote device and (b) an

application in the portable processing device (Abstract; col. 2, lines 34-38; col. 4, line 64

through col. 5, line 8; col. 7, lines 28-34; col. 13, lines 20-30).

As per claim 5, Evans teaches a method for providing a user interface for use by

a portable processing device for accessing and navigating patient record information

including the activity of initiating display of an image including a plurality of links to a

corresponding plurality of lists of patients, and wherein the step of initiating display of an

image including a plurality of links to a corresponding plurality of individual patients is

performed in response to user selection one of the plurality of links to a corresponding

plurality of lists of patients (figs. 5-8 and 19-22; col. 5, line 56 through col. 6, line 54).

As per claim 9, Evans teaches a method for providing a user interface for use by

a portable processing device for accessing and navigating patient record information

including the activity of maintaining a column element stationary upon vertically scrolling

an image screen display including other elements of the column (fig. 20; *depicted are*

vertical scroll bars having scroll arrows and sliding scroll box wherein scroll arrows

inherently maintains a column element stationary upon vertically scrolling an image

screen display including other elements of the column for moving line by line).

As per claims 13 and 14, Evans teaches a method for use by a portable

processing device for accessing and navigating patient record information (Abstract)

comprising the activities of receiving user id   r use in authorizing

user operation of the portable processing device (col. 15, lines 22-32), initiating display

of a patient record content index image using data derived, by dynamically processing

information comprising an existing patient record, in response to a user command from

said portable processing device to access the particular patient record, the content

index image including a plurality of links to a corresponding plurality of items of patient

record information (figs. 5-8, 12 and 19-22; col. 2, lines 34-38; col. 5, lines 56-66; col. 7,

lines 28-34; col. 9, lines 7-14; col. 13, lines 20-30), initiating display of an image

including a recorded patient medical parameter value and an associated medical

parameter label comprising an item of patient record information in response to user

selection of a link to one of the plurality of items of patient record information in the

content index image (fig. 7; col. 7, lines 52-64; *parameter value under "WITHIN*

RANGE" column and an associated medical parameter label of the type "blood test

result" are displayed upon selection of button(s) 159/187 within content index image

window(s) 150/180) and initiating display of at least one of (a) a reference range for the

medical parameter (fig. 7) and (b) a unit of measure for the medical parameter (fig. 7;

"UNITS" in MG/DL") in response to user selection of the medical parameter label (fig. 7;

col. 7, lines 6-19; *user select medical parameter label such as "blood test results")* and

wherein the reference range comprises a normal value range for the medical parameter

(fig. 7; col. 8, lines 5-8; col. 11, lines 19-22; *"REFERENCE" normal range such as "70-"*

for "GLUCOSE").

As per claim 16, Evans teaches a method for use by a portable processing

device for accessing and navigating patient record information (Abstract) including the

activity of initiating display of an image including a plurality of links to a corresponding

plurality of individual patients (col. 5, lines 56-66), initiating display of a patient record

content index image including a plurality of links to a corresponding plurality of items of

patient record information in response to user selection of a link to one of the plurality of

individual patients (figs. 5-8 and 19-22; col. 9, lines 7-14).

Claim 18 is similar in scope to claim 1 and is therefore rejected under similar

rationale.

Claims 7 and 8 are rejected under 35 U.S.C. 102(b) as anticipated by Evans or,

in the alternative, under 35 U.S.C. 103(a) as obvious over Evans in view Microsoft Excel

Help ("MS Excel").

As per claim 7, Evans teaches a method for providing a user interface for use by

a portable processing device for accessing and navigating patient record information

comprising a row element and the activity of horizontally scrolling an image screen

display including other elements of the row and maintaining a row element stationary

upon horizontally scrolling an image screen display including other elements of the row

(fig. 20; *under "Procedures", up, down, right and left scroll arrows within the scroll bars*

are depicted for scrolling the "Code | Description" columns and the rows and wherein a

row element such as ">" remains stationary upon horizontally scrolling).

In the alternative, although Evans teaches a method for providing a user

interface for use by a portable processing device for accessing and navigating patient

record information comprising a row element and the activity of horizontally scrolling an

image screen display including other elements of the row (fig. 20; *under "Procedures",*

up, down, right and left scroll arrows within the scroll bars are depicted for scrolling the

"Code | Description" columns and the rows). Evans does not explicitly disclose

maintaining a row element stationary upon horizontally scrolling an image screen

display including other elements of the row. MS Excel teaches maintaining a row

element stationary upon horizontally scrolling an image screen display including other

elements of the row (page 1). Therefore, it would have been obvious to an artisan at the

time of the invention to include MS Excel's teaching of maintaining a row element

stationary upon horizontally scrolling an image screen display including other elements

of the row and to Evans' teaching of a row element and the activity of horizontally

scrolling an image screen display including other elements of the row in order to keep

row and column labels visible as users scroll.

As per claim 8, Evans/the modified Evans teaches a method for providing a user

interface for use by a portable processing device for accessing and navigating patient

record information wherein the stationary row element is the first data element of the

row (MS Excel: pages 1-2; *while horizontally scrolling via clicking the arrow 220 in the*

scroll bar, row element 210 remains stationary wherein the stationary row element is the

first data element of the row).

Claims 3-4, 10, 11, 19 and 21 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Evans in view of Blewett et al. ("Blewett").

As per claim 3, although Evans teaches a method for providing a user interface

for use by a portable processing device for accessing and navigating patient record

information wherein the processing of the information comprising the existing particular

patient record includes the activity of deriving content index information from patient

record information (col. 15, lines 22-32), Evans does not explicitly disclose parsing the

information to identify information sections. Blewett teaches a method for providing a

user interface for use by a processing device for accessing and navigating information

including the step of parsing the information to identify information sections (Abstract;

i.e. parsing to extract relevant information). Therefore, it would have been obvious to an

artisan at the time of the invention to include Blewett's parsing the information to identify

information sections to Evans' deriving content index information from patient record

information in order to provide users with an implementation preference of breaking

data into smaller chunks so that an application can act on the information, especially

given that parsing is the only way to extract data from a file or data stream.

As per claim 4, the modified Evans teaches a method for providing a user

interface for use by a portable processing device for accessing and navigating patient

record information wherein the ancillary data comprises at least one of, (a) header data

of the acquired patient record information, (b) descriptive data in a data field of the

acquired patient record information, and (d) text data derived by parsing content of the

acquired patient record information (Blewett: Abstract; Evans: col. 15, lines 22-32).

Claim 10 is similar in scope to claim 3 and is therefore rejected under similar

rationale.

As per claim 11, the modified Evans teaches a user interface method for use by

a portable processing device for accessing and navigating patient record information

wherein the user command from the portable processing device to access the particular

patient record comprises user selection of a link to a particular patient (Evans: Abstract;

col. 2, lines 34-38; col. 9, lines 9-14; col. 13, lines 20-30; col. 15, lines 22-32).

Claim 19 is similar in scope to claim 3 and is therefore rejected under similar

rationale.

Claim 21 is similar in scope to claim 4 and is therefore rejected under similar

rationale.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans in

view of Myers et al. ("Myers").

As per claim 6, although Evans teaches a method for providing a user interface

for use by a portable processing device for accessing and navigating patient record

information including the activity of initiating display of the patient record content index

image including a plurality of links to a corresponding plurality of items of patient record

information and an image icon for display in a plurality of images, the image icon

supporting at least one of, (a) initiating display of the image including links to a plurality

of lists of patients, (b) initiating display of the image including a plurality of links to a

corresponding plurality of individual patients, (c) initiating display of the patient record

content index image including a plurality of links to a corresponding plurality of items of

patient record information and (d) initiating display of medical record information for a

next patient (figs. 5-8, 12 and 19-22; col. 5, line 56 through col. 6, line 54; col. 2, lines

34-38; col. 7, lines 28-34; col. 13, lines 20-30; *user selection in an icon-based interface*

of an image icon such as a patient name in a plurality of images, which includes

initiating display of the patient record content index image including a plurality of links

to a corresponding plurality of items of patient record information), Evans does not

explicitly disclose the initiating display of the patient record content index image to

include a plurality of image icons in a plurality of images, the image icon supporting at

least one of, (a) initiating display of the image including links to a plurality of lists of

patients, (b) initiating display of the image including a plurality of links to a

corresponding plurality of individual patients, (c) initiating display of medical record

information for a next patient. Myers teaches a method for providing a user interface for

use by a processing device for accessing and navigating patient record information

including the activity of initiating display of the patient record content index image to

include a plurality of image icons in a plurality of images, the image icon supporting at

least one of, (a) initiating display of the image including links to a plurality of lists of

patients, (b) initiating display of the image including a plurality of links to a

corresponding plurality of individual patients, (c) initiating display of medical record

information for a next patient (figs. 2(a-b), *elements 32 as well as 31 and 34-41 and*

respective portions of the specification). Therefore, it would have been obvious to an

artisan at the time of the invention to include Myers' teaching of initiating display of the

patient record content index image to include a plurality of image icons in a plurality of

images, the image icon supporting at least one of, (a) initiating display of the image

including links to a plurality of lists of patients, (b) initiating display of the image

including a plurality of links to a corresponding plurality of individual patients, (c)

initiating display of medical record information for a next patient to Evans' teaching of

initiating display of the patient record content index image to include a plurality of image

icons in a plurality of images, the image icon supporting at least one of, (a) initiating

display of the image including links to a plurality of lists of patients, (b) initiating display

of the image including a plurality of links to a corresponding plurality of individual

patients, (c) initiating display of medical record information for a next patient so that

users may select another patient record from any window and save browsing time.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans in

view of de la Huerga et al. ("Huerga") or, in the alternative, under 35 U.S.C. 103(a) as

obvious over Evans in view of de la Huerga et al. ("Huerga") as applied to claim 10, and

further in view of in view of Screen Dumps of Internet Explorer ("IE").

As per claim 12, the modified Evans teaches a method for providing a user

interface for use by a portable processing device for accessing and navigating patient

record information including the activity of acquiring data representing the portion of the

patient record in response to user selection of the link including offline access to the

information wherein the offline access to the information is inherent given that 102 can

communicate externally to obtain patient data wherein 102 includes a cache for

temporarily storing the patient data and a storage 208 for long term storage, thereby, allowing users to work offline (Evans: col. 9, lines 10-18; col. 5, lines 3-4).

In the alternative, although the modified Evans teaches a method for providing a user interface for use by a portable processing device for accessing and navigating patient record information including the activity of acquiring data representing an item of the patient medical record information in response to user selection of a link of the plurality of links (Evans: Abstract; figs. 5 and 8; col. 2, lines 34-38; col. 7, lines 28-34; col. 9, lines 9-14; col. 13, lines 20-30; col. 15, lines 22-32) wherein the item of the patient medical record information is available for access on the portable processing device (Evans: Abstract; col. 12, lines 61-63) and initiating display of an image including information comprising an item of patient medical information in response to user selection of a link to one of the plurality of items of patient medical record information (Evans: figs. 5-8, 12 and 19-22; col. 5, line 56 through col. 6, line 54; col. 2, lines 34-38; col. 13, lines 20-30), the modified Evans does not explicitly disclose users accessing information offline. IE teaches a method for providing a user interface for use by a processing device for accessing and navigating information including the activity of offline access to the information (pages 1-7). Therefore, it would have been obvious to include IE's teaching of an offline access to the patient medical record information to the modified Evans' teaching of online access to the patient medical record information in order to provide users with a backup system such is the case when users do not have a network or Internet connection.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans in

view of Bessette, and further in view of Internet Explorer ("IE").

As per claim 15, although Evans teaches a method for use by a portable

processing device for accessing and navigating patient record information comprising a

medical parameter label, URL links to patient record information (fig. 12; col. 8, lines 5-

8; col. 11, lines 19-22; col. 9, lines 7-14; col. 2, lines 34-38; col. 13, lines 20-30) and

display of at least one of (a) a reference range for the medical parameter and (b) a unit

of measure for the medical parameter in response to user selection of the medical

parameter label and wherein the reference range comprises a normal value range for

the medical parameter (col. 8, lines 5-8; col. 11, lines 19-22), Evans does not explicitly

disclose a medical parameter label being a URL link. Bessette teaches a method for

use by a processing device for accessing and navigating patient record information

comprising a medical parameter label being a URL link (col. 12, lines 18-66). Therefore,

it would have been obvious to an artisan at the time of the invention to include

Bessette's medical parameter label being a URL link to Evans' medical parameter label

and URL links to patient record information so that remote users may access medical

information such as medical parameter labels, using a web browser.

The combined teaching of Evans and Bessette still does not explicitly disclose

the URL link to be stored in the portable processing device. IE teaches storing URL

links on a portable processing device via the ubiquitous use of bookmarking favorite

links on a laptop (pages 1-4). Therefore, it would have been obvious to an artisan at the

time of the invention to include IE's teaching of a URL link to be stored in the portable

processing device to Evans and Bessette's teachings of the usage of URL links on a

portable processing device so that users may quickly revisit a link.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans in

view of de la Huerga et al. ("Huerga").

As per claim 17, although Evans teaches a method for use by a portable

processing device for accessing and navigating patient record information wherein the

processing of the information comprising the existing patient record includes the activity

of initiating generation of the patient record content index image by deriving content

information from patient record information (fig. 8; col. 7, lines 28-34; col. 15, lines 22-

32), Evans does not explicitly disclose including the step of initiating generation of the

patient record content index image by deriving content information from ancillary data

associated with acquired patient record information. Huerga teaches a method for

providing a user interface for use by a processing device for accessing and navigating

patient record information including the step of initiating generation of the patient record

content index image by deriving content information from ancillary data associated with

acquired patient record information (col. 17, lines 13-15). Therefore, it would have been

obvious to an artisan at the time of the invention to include Huerga's deriving content

index information from patient record information by deriving content information from

ancillary data associated with acquired patient record information to Evans' deriving

content index information from patient record information in order to provide users with

an implementation preference.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans in

view of de la Huerga et al. ("Huerga") as applied to claim 19, and further in view of

Bessette.

As per claim 20, although the modified Evans teaches a processing system

supporting remote operation of a plurality of portable processing devices used for

accessing and navigating patient record information wherein the communicated patient

record information includes a medical parameter and including the activity of

communicating to the portable processing device at least one of, (a) reference range for

a medical parameter and (b) a unit of measure for the medical parameter (Evans: col. 8,

lines 5-8; col. 11, lines 19-22) and URL links to patient record information (Evans: fig.

12; col. 8, lines 5-8; col. 11, lines 19-22; col. 9, lines 7-14; col. 2, lines 34-38; col. 13,

lines 20-30), Evans does not explicitly disclose a medical parameter label being a URL

link. Bessette teaches a method for use by a processing device for accessing and

navigating patient record information comprising a medical parameter label being a URL

link (col. 12, lines 18-66). Therefore, it would have been obvious to an artisan at the

time of the invention to include Bessette's medical parameter label being a URL link to

Evans' medical parameter label and URL links to patient record information so that

remote users may access medical information such as medical parameter labels, using

a web browser.

Claims 22 and 23 are rejected under 35 U.S.C. 102(b) as anticipated by Evans

or, in the alternative, under 35 U.S.C. 103(a) as obvious over Evans in view of Internet

Explorer ("IE").

As per claim 22, Evans teaches a method for providing a user interface for use by a portable processing device for accessing and navigating patient record information including the activity of acquiring data representing the portion of the patient record in response to user selection of the link including offline access to the information wherein the offline access to the information is inherent given that 102 can communicate externally to obtain patient data wherein 102 includes a cache for temporarily storing the patient data and a storage 208 for long term storage, thereby, allowing users to work offline (col. 9, lines 10-18; col. 5, lines 3-4).

In the alternative, although Evans teaches a method for providing a user interface for use by a portable processing device for accessing and navigating patient record information including the activity of acquiring data representing the portion of the patient record in response to user selection of the link including offline access to the information (col. 9, lines 10-18; col. 5, lines 3-4; *102 can communicate externally to obtain patient data wherein 102 includes a cache for temporarily storing the patient data and a storage 208 for long term storage, thereby, allowing users to work offline*), Evans does not explicitly disclose users accessing information offline. IE teaches a method for providing a user interface for use by a processing device for accessing and navigating information including the activity of offline access to the information (pages 1-7). Therefore, it would have been obvious to include IE's teaching of an offline access to the patient medical record information to the modified Evans' teaching of online access to the patient medical record information in order to provide users with a backup system such is the case when users do not have a network or Internet connection.

As per claim 23, Evans teaches a method for providing a user interface for use

by a portable processing device for accessing and navigating patient record information

comprising the activity of processing information of an existing particular patient record

is performed in response to download of particular patient record information to a

processing device and storage of the particular patient record information in memory in

the processing device wherein the processing device is inherently portable given that

Evans invention is based on "portable computer with wireless connections to a

computer network" (Abstract; fig. 8; col. 7, lines 28-34; col. 9, lines 10-18; col. 5, lines 3-

4; *102 can communicate externally to obtain patient data wherein 102 includes a cache*

for temporarily storing the patient data and a storage 208 for long term storage).

In the alternative, Evans teaches a method for providing a user interface for use

by a portable processing device for accessing and navigating patient record information

comprising the activity of processing information of an existing particular patient record

and acquiring data representing the plurality of links to the corresponding plurality of

items of patient record information in response to download of particular patient record

information to the portable processing device and storing the information in the portable

processing device (fig. 8; col. 7, lines 28-34; col. 9, lines 10-18; col. 5, lines 3-4;

information is transferred from a remote computer to the requesting computer by means

of a LAN/WAN connection wherein storing such as in cache memory is inherent since

users are able to view the information), Evans does not explicitly disclose storing

information in a portable processing device. IE teaches storing information in a portable

processing device (pages 1-7). Therefore, it would have been obvious to include

alternative storage for storing information in the portable processing device to Evans'

teaching of storing information in the portable processing device in order to provide

users with a backup system.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans,

and further in view of Internet Explorer ("IE").

As per claim 24, although Evans teaches a method for providing a user interface

for use by a portable processing device for accessing and navigating patient record

information comprising the activity of acquiring data representing the plurality of links to

the corresponding plurality of items of patient record information (Abstract; figs. 5 and 8;

col. 2, lines 34-38; col. 7, lines 28-34; col. 9, lines 9-14; col. 13, lines 20-30; col. 15,

lines 22-32), Evans does not explicitly disclose the URL link to be stored in the portable

processing device. IE teaches storing URL links on a portable processing device via the

ubiquitous use of bookmarking favorite links on a laptop (pages 1-4). Therefore, it would

have been obvious to an artisan at the time of the invention to include IE's teaching of a

URL link to be stored in the portable processing device to Evans and Bessette's

teachings of the usage of URL links on a portable processing device so that users may

quickly revisit a link.

(10) Response to Argument

Appellant argues: Appellant takes exception to instance of Official notice used in

the rejection and request that a showing be made of evidence that these features were

well known.

The examiner disagrees for the following reason(s): Instant and unquestionable demonstration that these features were made known to the general public and considered to be of wide notoriety through Microsoft's wide circulation of Internet Explorer was given in the Office action mailed 10/7/05.

Appellant argues: In regards to claims 1, 8 and 9, the rejection ignores the plain English definition of "patient medical record content index" as a patient record content index that serves to guide or point out, such as by a pointer, the matter contained in a patient medical record and further ignores the express definition provided in the *Specification* as a linked (e.g. hyperlinked) content index to each of the major sections of a patient chart.

The examiner disagrees for the following reason(s): In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *linked (e.g. hyperlinked) content index* to each of the major sections of a patient chart) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, it appears appellant's obfuscating explanation that "a patient record 'content index' 'serves to guide or point out' such by a 'pointer' the matter contained in a patient medical record" is incomplete. In accordance with *The American Heritage Dictionary of the English Language: Fourth Edition*, the use of "index" in the "pointer" sense is described to mean "a pointer, as on a scientific

instrument" (http://www.bartleby.com/61/7/I0100700.html), possibly appellant is making

an effort to link 'pointer' to the "pointer" technical term in computer science, i.e. of a

pointer that holds the address of the location of appellant's matter contained in a patient

medical record (http://www.bartleby.com/61/16/P0401600.html). Moreover, a list of

patients is consistent with the definition of index or content index being a) an

alphabetical list of names, or b) a table or catalog

(http://www.bartleby.com/61/7/I0100700.html).

Appellant argues: In regards to the arguments concerning claims 1, 8 and 9 (and

subsequently repeated in the arguments of claims 2, 13, 14 as well as claims 3, 7, 8,

10, 19, 21 as well as claims 6, 12, 17 and 22-24), Evans provides no 35 USC 112

compliant description of how such a patient record 'content index' may be so

'dynamically derived, by processing information comprising an existing particular patient

record, in response to a user command from a portable processing device'.

The examiner disagrees for the following reason(s): In view of the context of

"dynamically derived" in the claim language, it appears by "dynamically derived"

appellant meant: dynamically retrieved or that the dynamically derived or dynamically

retrieved content index is provided on the UI via processing information comprising an

existing particular patient record in response to a user command from a portable

processing device; especially, in light of the sentence structure of the claimed

"dynamically derived, by processing information comprising an existing particular patient

record, in response to a user command from a portable processing device" wherein

"dynamically derived" is followed by what is meant by dynamically derived, which Evans teaches (fig. 8; col. 7, lines 28-34).

Appellant argues: In regards to claim 5, Evans does not show or suggest initiating display of an image including a plurality of links to a corresponding plurality of lists of patients.

The examiner disagrees for the following reason(s): Evans does teach initiating display of an image (figs. 5-8 and 19-22; col. 5, line 56 through col. 6, line 54) including a plurality of links to a corresponding plurality of lists of patients (figs. 5-8 and 19-22; col. 5, line 56 through col. 6, line 54).

Appellant argues: In regards to claims 13 and 14, Evans does not show or suggest initiating display of at least one of (a) a reference range for the medical parameter and (b) a unit of measure for the medical parameter in response to user selection of a medical parameter label. In regards to claim 17, the claimed features are not shown or suggested in Evans in combination with De la Huerga.

The examiner disagrees for the following reason(s): Evans teaches initiating display *of at least one of* (a) a reference range for the medical parameter (fig. 7) and (b) a unit of measure for the medical parameter (fig. 7; *"UNITS" in MG/DL"*) in response to user selection of the medical parameter label (fig. 7; col. 7, lines 6-19; *user select medical parameter label such as "blood test results"*) and wherein the reference range

comprises a normal value range for the medical parameter (fig. 7; col. 8, lines 5-8; col.

11, lines 19-22; *"REFERENCE" normal range such as "70-" for "GLUCOSE"*).

In regards to claim 17, Evans teaches initiating generation of the patient record

content index image by deriving content information from patient record information (fig.

8; col. 7, lines 28-34; col. 15, lines 22-32), and Huerga teaches a method for providing a

user interface for use by a processing device for accessing and navigating patient

record information including the step of initiating generation of the patient record content

index image by deriving content information from ancillary data associated with acquired

patient record information (col. 17, lines 13-15).

Appellant argues: In regards to claims 7 and 8, the examiner is expected to

provide a reason why one having ordinary skill in the pertinent art would have been led

to modify the prior art or to combine prior art reference to arrive at the claimed invention.

Excel's feature allows you to determine where a split between the panes is to appear.

The examiner disagrees for the following reason(s): The examiner provided a

reason why one having ordinary skill in the pertinent art would have been led to

combine the method of Microsoft Excel with the method of Evans in the Office action

mailed 10/7/05, the reason being "in order to keep row and column labels visible as

users scroll" given that the knowledge is generally available to one having ordinary skill

in the art as is self-evident in the observable characteristic of Microsoft Excel's scrolling

feature. Claims 7 and 8 are further rejected under 35 U.S.C. 102(b) as anticipated by

Evans wherein Evans teaches a method for providing a user interface for use by a

portable processing device for accessing and navigating patient record information comprising a row element and the activity of horizontally scrolling an image screen display including other elements of the row and maintaining a row element stationary upon horizontally scrolling an image screen display including other elements of the row (fig. 20; *under "Procedures", up, down, right and left scroll arrows within the scroll bars are depicted for scrolling the "Code | Description" columns and the rows and wherein a row element such as ">" remains stationary upon horizontally scrolling*).

In response to applicant's argument that Excel's feature allows you to determine where a split between the panes is to appear, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Appellant argues: In regards to claims 3, 19 and 21, Blewett does not teach a system involving deriving content index information from patient record information by parsing patient record information ancillary data to identify distinct patient record information sections. In regards to claim 3, Blewett is non-analogous art.

The examiner disagrees for the following reason(s): In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Evans teaches patient record

information and a method for providing a user interface for use by a portable processing

device for accessing and navigating patient record information wherein the processing

of the information comprising the existing particular patient record includes the activity

of deriving secondary/ancillary data and content index information from patient record

information (col. 15, lines 22-32). The teaching extracted from Blewett is for the feature

of parsing information to identify distinct information sections (Abstract; *i.e. parsing to

extract relevant information*).

In response to applicant's argument that Blewett is nonanalogous art, it has been

held that a prior art reference must either be in the field of applicant's endeavor or, if

not, then be reasonably pertinent to the particular problem with which the applicant was

concerned, in order to be relied upon as a basis for rejection of the claimed invention.

See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both

Blewett and Evans teach a method for providing a user interface for use by a

processing device for accessing as well as navigating information and given that

parsing is the only way to extract data from a file, it would have been obvious to an

artisan at the time of the invention to incorporate the method of Blewett with the method

of Evans in order to break data into smaller chunks so that an application can act on the

information.

Appellant argues: In regards to claim 4, Evans with Blewett neither discloses or

suggest parsing at least one of, (a) header data of the acquired patient record

information, (b) descriptive data in a data field of the acquired patient record

information, and (d) text data derived by parsing content of the acquired patient record

information. Blewett's teaching of parsing HTML files will not work with patient records,

which may not comprise HTML files.

The examiner disagrees for the following reason(s): The modified Evans teaches

parsing *at least one of,* (a) header data of the acquired patient record information, (b)

descriptive data in a data field of the acquired patient record information, and (d) text

data derived by parsing content of the acquired patient record information (Blewett:

Abstract; Evans: col. 15, lines 22-32).

In response to applicant's argument that the references fail to show certain

features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., patient records, which may not comprise HTML files) are not recited in the rejected

claim(s). Although the claims are interpreted in light of the specification, limitations from

the specification are not read into the claims. See *In re Van Geuns,* 988 F.2d 1181, 26

USPQ2d 1057 (Fed. Cir. 1993). Moreover, the rejection requirement is fulfilled as long

as Blewett is shown to teach an instance of parsing a file (Abstract).

Appellant argues: In regards to claim 10, the combination of the Blewett features

and Evans system as suggested in the Rejection results in a system in which a patient

medical record data structure that is *fixed upon creation of a patient record* is searched

for HTML tags. Such a system would fail to identify patient records section. Further,

there is no motivation for combining the cited references.

The examiner disagrees for the following reason(s): The combination of the Blewett features and Evans system results in a system comprising creation of a patient record (Evans: col. 15, lines 22-32) by parsing an HTML file (Blewett: Abstract).

In regards to such a system would fail to identify patient records section, see the above first section response to appellant's piecemeal analysis of the references concerning claim 3.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, motivation to do so is found in the knowledge generally available to one of ordinary skill in the art, that of parsing a file, especially since parsing a file is the only way to extract information.

Appellant argues: In regards to claim 6, Evans and Myers neither disclose nor suggest the claimed subject matter. There is also no other reason to incorporate the claimed features.

The examiner disagrees for the following reason(s): Evans teaches a method for providing a user interface for use by a portable processing device for accessing and navigating patient record information including the activity of initiating display of the

patient record content index image including a plurality of links to a corresponding

plurality of items of patient record information and an image icon for display in a plurality

of images, the image icon supporting at least one of, (a) initiating display of the image

including links to a plurality of lists of patients, (b) initiating display of the image

including a plurality of links to a corresponding plurality of individual patients, (c)

initiating display of the patient record content index image including a plurality of links to

a corresponding plurality of items of patient record information and (d) initiating display

of medical record information for a next patient (figs. 5-8, 12 and 19-22; col. 5, line 56

through col. 6, line 54; col. 2, lines 34-38; col. 7, lines 28-34; col. 13, lines 20-30; *user

selection in an icon-based interface of an image icon such as a patient name in a

plurality of images, which includes initiating display of the patient record content index

image including a plurality of links to a corresponding plurality of items of patient record

information*). Myers teaches a method for providing a user interface for use by a

processing device for accessing and navigating patient record information including the

activity of initiating display of the patient record content index image to include a

plurality of image icons in a plurality of images, the image icon supporting at least one

of, (a) initiating display of the image including links to a plurality of lists of patients, (b)

initiating display of the image including a plurality of links to a corresponding plurality of

individual patients, (c) initiating display of medical record information for a next patient

(figs. 2(a-b), *elements 32 as well as 31 and 34-41 and respective portions of the

specification*).

In response to applicant's argument that there is also no other reason to incorporate the claimed features, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Appellant argues: In regards to claim 12, Evans with De la Huerga and with IE does not mention or suggest the claimed subject matter. The examiner has also failed to provide any documentary evidence as to the date of IE.

The examiner disagrees for the following reason(s): The modified Evans teaches a method for providing a user interface for use by a portable processing device for accessing and navigating patient record information including the activity of acquiring data representing the portion of the patient record in response to user selection of the link including offline access to the information wherein the offline access to the information is inherent given that 102 can communicate externally to obtain patient data wherein 102 includes a cache for temporarily storing the patient data and a storage 208 for long term storage, thereby, allowing users to work offline (Evans: col. 9, lines 10-18; col. 5, lines 3-4). In the alternative, while the modified Evans teaches a method for providing a user interface for use by a portable processing device for accessing and navigating patient record information including the activity of acquiring data representing

an item of the patient medical record information in response to user selection of a link

of the plurality of links (Evans: Abstract; figs. 5 and 8; col. 2, lines 34-38; col. 7, lines 28-

34; col. 9, lines 9-14; col. 13, lines 20-30; col. 15, lines 22-32) wherein the item of the

patient medical record information is available for access on the portable processing

device (Evans: Abstract; col. 12, lines 61-63) and initiating display of an image including

information comprising an item of patient medical information in response to user

selection of a link to one of the plurality of items of patient medical record information

(Evans: figs. 5-8, 12 and 19-22; col. 5, line 56 through col. 6, line 54; col. 2, lines 34-38;

col. 13, lines 20-30), IE teaches a method for providing a user interface for use by a

processing device for accessing and navigating information including the activity of

offline access to the information (pages 1-7).

As evident by the March 26, 2001 date on the "List of references cited by

examiner" or PTO 892 document mailed 10/7/05, the examiner has provide

documentary evidence as to the date of IE. Further documentary support may be found

through the LOCIS (Library of Congress Information System;

http://www.copyright.gov/records/cohm.html)

Appellant argues: In regards to claim 15, feature of claim 15 are not shown or

suggested in Evans in combination with Bessette with IE. The combined references

further fail to provide any other motivation or reason for combing the systems.

The examiner disagrees for the following reason(s): While Evans teaches a

method for use by a portable processing device for accessing and navigating patient

record information comprising a medical parameter label, URL links to patient record

information (fig. 12; col. 8, lines 5-8; col. 11, lines 19-22; col. 9, lines 7-14; col. 2, lines

34-38; col. 13, lines 20-30) and display of at least one of (a) a reference range for the

medical parameter and (b) a unit of measure for the medical parameter in response to

user selection of the medical parameter label and wherein the reference range

comprises a normal value range for the medical parameter (col. 8, lines 5-8; col. 11,

lines 19-22), Bessette teaches a method for use by a processing device for accessing

and navigating patient record information comprising a medical parameter label being a

URL link (col. 12, lines 18-66), and the factual evidence supported by the proliferate use

of ubiquitous IE's bookmarks as indicative of its wide notoriety (pages 1-4; storing URL

links on a portable processing device).

In response to applicant's argument that there is no suggestion to combine the

references, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention

where there is some teaching, suggestion, or motivation to do so found either in the

references themselves or in the knowledge generally available to one of ordinary skill in

the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and In re

Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, motivation to do

so is found in the knowledge generally available to one of ordinary skill in the art,

especially with the rise and user's preference for using web browsers to access remote

information and bookmarking URL links to quickly revisit a favorite link.

Appellant argues: In regards to claim 20, claimed features are not shown or suggested in Evans in combination with De la Huerga and Bessette.

The examiner disagrees for the following reason(s): While the modified Evans teaches a processing system supporting remote operation of a plurality of portable processing devices used for accessing and navigating patient record information wherein the communicated patient record information includes a medical parameter and including the activity of communicating to the portable processing device at least one of, (a) reference range for a medical parameter and (b) a unit of measure for the medical parameter (Evans: col. 8, lines 5-8; col. 11, lines 19-22) and URL links to patient record information (Evans: fig. 12; col. 8, lines 5-8; col. 11, lines 19-22; col. 9, lines 7-14; col. 2, lines 34-38; col. 13, lines 20-30), Bessette teaches a method for use by a processing device for accessing and navigating patient record information comprising a medical parameter label being a URL link (col. 12, lines 18-66).

Appellant argues: In regards to claims 22 and 23, neither Evans nor IE alone or together show or suggest the claimed features. The combined system also fails to show or suggest the capability of providing offline access to patient medical record sections that are substantially larger than a web page.

The examiner disagrees for the following reason(s): In regards to claim 22, Evans teaches a method for providing a user interface for use by a portable processing device for accessing and navigating patient record information including the activity of acquiring data representing the portion of the patient record in response to user

selection of the link including offline access to the information wherein the offline access

to the information is inherent given that 102 can communicate externally to obtain

patient data wherein 102 includes a cache for temporarily storing the patient data and a

storage 208 for long term storage, thereby, allowing users to work offline (col. 9, lines

10-18; col. 5, lines 3-4). In the alternative, while Evans teaches a method for providing a

user interface for use by a portable processing device for accessing and navigating

patient record information including the activity of acquiring data representing the

portion of the patient record in response to user selection of the link including offline

access to the information (col. 9, lines 10-18; col. 5, lines 3-4; *102 can communicate*

externally to obtain patient data wherein 102 includes a cache for temporarily storing the

patient data and a storage 208 for long term storage, thereby, allowing users to work

offline), IE teaches a method for providing a user interface for use by a processing

device for accessing and navigating information including the activity of offline access to

the information (pages 1-7).

In regards to claim 23, Evans teaches a method for providing a user interface for

use by a portable processing device for accessing and navigating patient record

information comprising the activity of processing information of an existing particular

patient record is performed in response to download of particular patient record

information to a processing device and storage of the particular patient record

information in memory in the processing device wherein the processing device is

inherently portable given that Evans invention is based on "portable computer with

wireless connections to a computer network" (Abstract; fig. 8; col. 7, lines 28-34; col. 9,

lines 10-18; col. 5, lines 3-4; *102 can communicate externally to obtain patient data*

wherein 102 includes a cache for temporarily storing the patient data and a storage 208

for long term storage). In the alternative, while Evans teaches a method for providing a

user interface for use by a portable processing device for accessing and navigating

patient record information comprising the activity of processing information of an

existing particular patient record and acquiring data representing the plurality of links to

the corresponding plurality of items of patient record information in response to

download of particular patient record information to the portable processing device and

storing the information in the portable processing device (fig. 8; col. 7, lines 28-34; col.

9, lines 10-18; col. 5, lines 3-4; *information is transferred from a remote computer to the*

requesting computer by means of a LAN/WAN connection wherein storing such as in

cache memory is inherent since users are able to view the information), IE teaches

storing information in a portable processing device (pages 1-7).

In response to applicant's arguments against the references individually, one

cannot show nonobviousness by attacking references individually where the rejections

are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir.

1986).

Appellant argues: In regards to claim 24, Evans and IE do not suggest the

claimed features.

The examiner disagrees for the following reason(s): While Evans teaches a method for providing a user interface for use by a portable processing device for accessing and navigating patient record information comprising the activity of acquiring data representing the plurality of links to the corresponding plurality of items of patient record information (Abstract; figs. 5 and 8; col. 2, lines 34-38; col. 7, lines 28-34; col. 9, lines 9-14; col. 13, lines 20-30; col. 15, lines 22-32), IE teaches storing URL links on a portable processing device via the ubiquitous use of bookmarking favorite links on a laptop (pages 1-4).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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